

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB388

Hearing Date: Monday February 08, 2021
Committee On: Transportation and Telecommunications
Introducer: Friesen
One Liner: Adopt the Nebraska Broadband Bridge Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Albrecht, Cavanaugh, M., DeBoer, Friesen, Geist, Hughes, Moser
Nay:		
Absent:		
Present Not Voting:	1	Senator Bostelman

Oral Testimony:

Proponents:

Senator Curt Friesen
Pete Ricketts
Dan Watermeier
Patrick Pope
Mark McHargue
Burke Brown
Tip O'Neill
Brett Bieber
Brad Moline
Jim Smith
Jack Moles

John Hladik
Jina Ragland
John Hansen
John Idoux
Julia Plucker
Camdyn Kavanx
Lash Chaffin
Julie Erickson

Opponents:

Neutral:

Representing:

Introducer
Governor of NE
NE Public Service Commission
NE Public Power District
NE Farm Bureau
District OR1 Schools, NSEA
NE Telecommunications Assn
Self
ALLO Communications
Blueprint NE
NE Rural Community Schools Assn, NE Council of School Administrators, et at.
Center for Rural Affairs
AARP NE
NE Farmers Union
CenturyLink
NE Internet & Television Assn
OpenSky Policy Institute
League of NE Municipalities
NE Child Health & Education Assn

Representing:

Representing:

Submitted Written Testimony:

Proponents:

Brian Krannawitter
Eric Gerrard
Kristen Hassebrook
Bob Hallstrom

Representing:

American Heart Assn
Windstream
NE Chamber of Commerce & Industry
NE Bankers & Nat'l Federation of Independent Business

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 388 creates the Nebraska Broadband Bridge Act (Act) within the Public Service Commission (PSC). The Act provides \$20 million in grants annually to increase access to high speed broadband across the state. The grant program currently covers two years, but could be extended.

Areas eligible to receive the grants are prioritized into three categories; (1) unserved areas that have not been targeted for a project, (2) unserved areas that are receiving federal support for construction that will not be completed within 24 months, and (3) underserved areas that have developed a broadband and digital inclusion plan. Underserved areas are defined as a geographical area lacking broadband speed of at least 100/20 Mbps. Underserved areas are defined as geographical areas lacking broadband speed of at least 25/3 Mbps.

The Act offers a challenge process if a provider has begun construction in the proposed project area at speeds equal to or greater than 100/20 Mbps, or the provider commits to complete construction in the proposed area at speeds equal to or greater than 100/20 Mbps no later than 18 months after the grant awards are made. If the provider submitting the challenge does not provide to the proposed project area within 18 months, the provider will not be allowed to challenge any grant for the following two years, unless the failure was due to factors beyond the provider's control.

Recipients of the grant must provide broadband speeds of 100 Mbps/100 Mbps or greater, matching funds equal to at least 50% of the development costs, and complete the project within 18 months. The PSC may permit one extension of up to six months upon request and for good cause. If the project is not completed within the time frame, a percentage of the grant must be repaid for each month the project is extended.

After completion of a project, recipients will be required to conduct a speed test as determined by the PSC. If the broadband network does not provide scalable speeds of 100/100 Mbps, the grant recipient must pay back the grant.

Section-by-Section Summary

Section 1 creates the Nebraska Broadband Bridge Act.

Section 2 defines Commission, Development cost, Grant, Program, Project, Project area, Provider, Speed test, Underserved area, and Unserved area.

Section 3 states program purpose, authorizes the PSC to administer the program, and appropriates \$20 million per year for grants, beginning in FY 2021-22.

Section 4:

--Subsection 1 allows a provider, cooperative, or political subdivision to apply to the commission for a grant. The grant shall only be used for development costs for a qualifying project. To qualify, the project must require broadband Internet service scalable to 100/100 Mbps. An application from a political subdivision must be as part of a public-private partnership with a

provider. Matching funds equivalent to 50% of the total development cost will be required.

---Subsection 2 requires an applicant to complete a project within 18 months of the grant award, with one 6 months extension from the PSC available for good cause. If the grant recipient, the recipient must repay the grant on a sliding scale. If no extension is permitted, 10% of the grant shall be returned for each month the project is late. If an extension is permitted, 20% is due for each month project completion is late.

---Subsection 3 requires each applicant to agree to submit to PSC speed tests. If a grant recipient does not meet required speeds, it must repay the entire grant.

Section 5 lays out grant priorities. Priority (1) is unserved areas that have not been targeted for a project, (2) is unserved areas that are receiving federal support for broadband development that will not be completed within 24 months and the PSC determine that a grant under the program will accelerate deployment of the network, and (3) is underserved areas that the PSC determines has a broadband and digital inclusion plan.

Section 6:

---Subsection 1 directs the PSC to publish project projects, project areas, and broadband speeds for each submitted application.

---Subsection 2 allows any provider to challenge an application with 30 days of publications. The challenge shall demonstrate that either (a) the provider provides or has begun construction of at least 100/20 Mbps broadband service in the proposed project area, or (b) the provider provides service in or proximate to the proposed project area, and the provider commits to complete construction of broadband infrastructure and provide speeds of at least 100/20 no later than 18 months after the date grant awards are made.

---Subsection 3 directs the PSC to evaluate the information submitted in a challenge. If the information is credible and the challenging provider agrees to submit documentation substantiating its claims within 18 months of the grant award date.

---Subsection 4 provides that if the PSC denies a grant application based on a challenge, and the challenging provider does not provide the required broadband service within 18 months, the provider will not be allowed to challenge another grant for two years, unless the failure was due to factors outside the control of the provider.

Section 7 allows the PSC to adopt and promulgate rules and regulations to carry out this Act.

Explanation of amendments:

The committee amendment AM 530 strikes the original sections and inserts language that accomplishes the following:

Section 1 makes no changes from the original Section 1.

Section 2 adds definitions for "digital inclusion" and "eligible telecommunications carrier." The "digital inclusion" definition was taken from LB 456.

Section 3 makes no changes from the original Section 3.

Section 4 adds Indian tribes to the list of eligible grant applicants, and adds language that provides a second set of speed tests for applicants that fail the first set of speed tests. The new speed test language is found on Page 4, lines 24-27.

Section 5 makes no changes from the original Section 5.

Section 6 is new language that directs the PSC to establish a weighted scoring system to evaluate and rank applications for grants. Six evaluation points are listed, but the PSC is free to consider additional factors to develop this weighted scoring system. The PSC shall publish on its website the specific criteria and quantitative weighted scoring system it will use to evaluate and rank applications and award grants pursuant to the program at least 30 days prior to the first day applications may be submitted. Portions of this new section were taken from Section 5 of LB 604.

Section 7 includes the language of original Section 6, and adds language allowing an applicant that has an application challenged to provide additional information to rebut the challenge. The new language is found on Page 5, line 29 through Page 6, line 3.

Section 8 is new language that provides for the following:

---The PSC shall approve grant funding for all qualified applicants within the limits of available appropriations.

---An applicant that accepts a grant shall provide broadband Internet service in the project area until released from this commitment by the PSC.

---The PSC shall not add to the obligations required of a grant recipient after the award is made without consent of the recipient.

---Any single project award is capped at \$5,000,000.

Section 9 is new language that creates the Nebraska Broadband Bridge Fund, which shall be administered by the PSC to finance grants for qualifying projects under the Broadband Bridge Grant. This fund shall consist of both funds appropriated by the Legislature, and federal funds received for broadband enhancement purposes. Portions of this new section were taken from Section 8 of LB 456.

Section 10 contains original Section 7, which allows the PSC to adopt and promulgate rules and regulations to carry out this Act.

Section 11 declares an emergency.

Curt Friesen, Chairperson